

Main Identity

From: "Robertson, Kate (Kate)" <binkey@avaya.com>
To: "John Moran" <jmoran18819@earthlink.net>
Sent: Monday, March 11, 2002 4:16 PM
Attach: 401052-A-BrownLateDec.doc; 401052-B-BrownLateDec.doc; 401052 B
BrownLateAssignment.doc; 401052 A BrownLateAssignment.doc
Subject: FW: Formal Papers

-----Original Message-----

From: Robertson, Kate (Kate)
Sent: Thursday, February 28, 2002 12:27 PM
To: 'MikeBrown'
Subject: Formal Papers

Hi Mike.

Thanks for getting back with me on this.

Attached are the formal papers for both applications that you submitted.

<<401052-A-BrownLateDec.doc>> <<401052-B-BrownLateDec.doc>> <<401052
B BrownLateAssignment.doc>> <<401052 A BrownLateAssignment.doc>>

After signing and having notarized (the Assignments need notarized) please mail these back to me at the following address:

Kate Robertson
Avaya - Rm. 2U41
1300 W. 120th Ave.
Westminster, CO 80234

Thanks Mike. Sorry this is catching you at an inconvenient time !! Any questions, please call me on 303-538-4211.

Kate Robertson

Robertson, Kate (Kate)

From: Michael K. Brown [mkb@cydyreal.com]
 Sent: Friday, March 01, 2002 12:59 PM
 To: Robertson, Kate (Kate)
 Cc: Michael K. Brown
 Subject: Re: Formal Papers



Kate,

I understand. I know a little bit about patent law from running into patent issues in the past so many times. John told me several months ago, when I first worked with him, that Avaya can pay this award, but they might need to bring me in as a consultant to deal with getting a check cut through their payroll, where such checks normally are issued.

I guess they just didn't want to be bothered.

I'm sorry you are in the middle of this, but I need to encourage Avaya to do the right thing. I'm still hopeful we can come to an agreement on compensation, but it looks like I'm going to have to work at it a little more.

Best,
 Mike

Robertson, Kate (Kate) wrote:

> Mike,
 >
 > In that I'm not an attorney, I don't know what can and can't be done
 > about this. I was just trying to help John Moran get this paperwork
 > done in that he's traveling overseas right now. Maybe you can give him
 > a call when you get back from your trip.
 >
 > Kate
 >
 > -----Original Message-----
 > From: Michael K. Brown [mailto:mkb@cydyreal.com]
 > Sent: Friday, March 01, 2002 12:35 PM
 > To: Robertson, Kate (Kate)
 > Cc: Michael K. Brown
 > Subject: Re: Formal Papers
 >
 >
 > Kate,
 >
 > Legally at this point they cannot just drop my name from the patent
 > under U.S. Patent law unless they can prove I made no material
 > contribution. This would be difficult since I authored the original
 > submission document. Although it was expanded later, it would look
 > pretty shady to just drop me off at this point. I think they would have
 >
 > to rewrite the whole set of claims.
 >
 > This refusal to honor the award program is a discretionary decision on
 > some manager's part, apparently thinking I have no recourse. An
 > alternative approach to resolve this issue would be for Cydyreal to
 > invoice Avaya for time and expenses. If they are willing to consider
 > such an option, then we may achieve the same result by a different path.
 >
 > Regards,
 > Mike
 >
 > Robertson, Kate (Kate) wrote:

**COPY OF PAPERS
 ORIGINALLY FILED**

>
>
>>Mike, I understand. If you'd like, at this point, you can just sign
>>
> the
>
>>papers and put them in the mail without notarization, at least this
>>
> way
>
>>your name will get put on the patent.
>>
>>I understand how you must feel. Let me know what you decide to do.
>>
>>Kate Robertson
>>303-538-4211
>>
>>
>>-----Original Message-----
>>From: Michael K. Brown [mailto:mkb@cydyreal.com]
>>Sent: Friday, March 01, 2002 11:26 AM
>>To: Robertson, Kate (Kate)
>>Cc: Michael K. Brown; Hopkins, Catherine F (Cathy)
>>Subject: Re: Formal Papers
>>
>>
>>Kate,
>>
>>I was just informed through Ravi Sethi's organization that Avaya has
>>
> no
>
>>intention of honoring the patent awards program for these filings
>>
> since
>
>>I am a retiree and no longer with the company, and their view is that
>>these filings were done after I left (although I made the original
>>submission many months earlier). This is unfortunate since I've
>>
> already
>
>>devoted considerable unpaid time helping to prepare these documents
>>
> over
>
>>several months since late last year, and it would just incur
>>
> additional
>
>>lost time and money to print, prepare, get notarization and mail these
>>
>
>>documents. Given that I'm also trying to get taxes done before I
>>
> leave
>
>>tomorrow this puts me in a needless time crunch to get these out
>>
> today,
>
>>so I'm sorry for the inconvenience to you personally but I will not be
>>
>
>>able to complete the signing before I leave.
>>
>>If necessary, we may try again when I return in early April.

>>
>> . Mike
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>>
>>Robertson, Kate (Kate) wrote:
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>>
.>>>Hi Mike.
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>>>Thanks for getting back with me on this.
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>>>Attached are the formal papers for both applications that you
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>>submitted.
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>>>Westminster, CO 80234
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>>>Thanks Mike. Sorry this is catching you at a inconvenient time !!
>>>
>>>
>>Any
>>
>>
>>>questions, please call me on 303-538-4211.
>>>
>>>Kate Robertson
>>>
>>>
>>>
>>
>
>

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Michael K. Brown, Ph.D.
President, Cydyreal, Inc.
MOBILE: (908)578-8804

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(908)561-1281
FAX: (908)754-7696

TELEPHONE (303) 450-9926
FAX (303)-920-9113

A PROFESSIONAL CORPORATION
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THORNTON COLORADO 80233

EMAIL
jmoran18819@earthlink.net

April 6, 2002

Michael K. Brown
285 Lewis Street
North Plainfield, NJ 07060

Dear Mr. Brown:

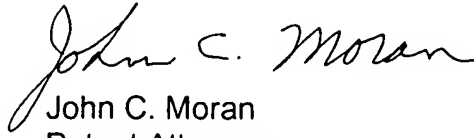
Re: United States Patent Application Serial No. 10/037,588
United States Patent Application Serial No. 10/037,584

The above-identified patent applications were filed on October 23, 2001 without signed Declarations. You had previously received Declaration and Power of Attorney plus Assignment papers for the above-identified patent applications but have refused to sign these papers as stated in your email messages to Kate Robertson and myself. In your email messages, you have also clearly stated that you are an inventor of the above-identified patent applications and that you had spent a large amount of time assisting in the preparation of these applications. Let me thank you again for your help in the preparation of these applications. On the possibility that you have decided to sign the papers for these applications but have lost the original papers, I am enclosing copies of the above-identified patent applications as filed along with new Declaration and Power of Attorney plus Assignment papers. If you wish to sign, please just sign the papers in blue ink and return them to me. You do not have to have the papers notarized. I have included a return envelope with postage for the Declaration and Power of Attorney plus Assignment papers.

If your decision is not to sign, then, I will be required to follow well established U.S. Patent and Trademark Office procedures to have these papers filed without your signature. These procedures are designed to handle cases where an inventor refuses to sign the Declaration and Assignment papers. You will still be an inventor, and your name will appear as such on any patents that may issue from these applications.

If you wish to speak with me, please call me at 303-450-9926.

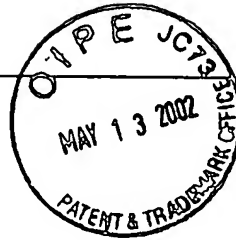
Yours truly,

A handwritten signature in cursive script that reads "John C. Moran".

John C. Moran
Patent Attorney

Encs.

CC:
Ravi Sethi
David Volejnicek

Main Identity

From: "Michael K. Brown" <mkb@cydyreal.com>
To: "John Moran" <jmoran18819@earthlink.net>
Cc: "Michael K. Brown" <mkb@cydyreal.com>
Sent: Wednesday, April 24, 2002 12:45 PM
Subject: Re: Patent Applications - 401052-A-01-US (Brown) and 401052-B-01-US (Brown)

John,

I got your phone message when I returned this afternoon. If I understand the message correctly you made the following points:

1. the duplicate numbering of inventors will not be an issue for the PO
2. Avaya Technology Corp. is correct. I take this to mean the IP is held in a separate entity for greater asset protection. Can you tell me if the IP would be protected during a bankruptcy process? (A side interest, as an investor this is worth knowing.)
3. you state that signing the assignment only commits me to signing further documents.

I have no issue with items #1 and #2. Let me include here the exact wording from the assignment document that causes me concern:

"We agree that, when requested, we shall, without charge to Avaya Technology Corp. but at its expense, sign all papers, [= >] and DO ALL ACTS [= <] which may be necessary, desirable or convenient in connection with said applications, patents, or other forms of protection."

While I am not a legal expert, I can read plain English perfectly well, and this clearly and explicitly states that I would agree to more than just signing documents.

I'm sorry for the inconvenience, John, but given this wording and your explanation, I am no longer comfortable signing these documents without

seeking my own legal advice at this point. In the absense of a requirement for me to undertake that expense, I believe it is more expedient to decline to sign these documents.

Mike